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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William Kopaciewicz, et al.
Serial No. : 09/659,241 —
Filed : September 11, 2000 —
For : HIGH DENSITY CAST-IN-PLACE SAMPLE
PREPARATION CARD
Examiner : Ludlow, J.
Art Unit : 1743
Attorney :
Docket No. : MCA-463

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231
Sir:

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Kevin S. Lemack
Name of applicant, assignee, or Registered Representative

[Signature]
Signature
September 19, 2002
Date

REMARKS

The Office Action dated June 19, 2002 has been received and carefully studied.

The Examiner rejects claims 1-24, 31-32 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner considers the phrase "self-retaining" to be indefinite.

The rejection is respectfully traversed.

The term "self-retaining" means just what it says, namely, that the structure comprising a porous matrix is retained in the housing by itself. This is accomplished, for example, by chemical adhesion between the structure and the wall of the housing, as disclosed at page 10, lines 16-22 of the specification. If additional retention means are required, the structure is not self-retaining.

The Examiner rejects claims 1-20, 22-24 and 31-34 under 35 U.S.C. §102(b) as being anticipated by Fernwood et al., or alternatively under 35 U.S.C. §103(a) as being

unpatentable over Fernwood et al. The Examiner states that Fernwood teaches a device having sample reservoirs 12, collection reservoirs 20, filtration substrate 13 and spouts 14 fixed together with screws and latches. The Examiner considers the filter portions to be of the same thickness as the rest of the sheet, and that the adsorbent filters (TEFLON or TEFLON coated with diatomaceous earth) are inherently functionalized to be adsorbent. The Examiner considers the diatomaceous earth particles to be entrapped in the porous matrix. The Examiner cites Figure 4 as showing an aspect ratio of 10 based on the 30 mm diameter of the well by the 3 mm thickness of the filter. The Examiner considers that the porous regions are contained in the non-porous sheets and do not fall out, and are thus self-retaining.

The rejections are respectfully traversed.

The Examiner is apparently arriving at the aspect ratio of 10 by literally measuring the well 12 and membrane thickness in Figure 4. Although Applicants agree that drawings form part of the disclosure, there is no suggestion in Fernwood that Figure 4 is drawn to scale. Furthermore, although the *pertinent* porous portions in Fernwood are the same size as the wells as the Examiner states, measuring only the *pertinent* portion of the membrane to fortuitously arrive at an aspect ratio of 10 ignores the instant claim language, which expressly recites that the aspect ratio is of the porous matrix structure, not merely the *pertinent* portion of that structure. As clearly defined in the instant specification, the aspect ratio is the average diameter of the structure divided by the average thickness of the structure, not the average diameter of some "pertinent" portion of that structure divided by the average diameter of some pertinent thickness of that structure. Ignoring the remainder of the Fernwood membrane in Figure 4 ignores a critical component of Fernwood, namely,

the portion of the membrane necessary to sealingly secure it in the well by clamping or sandwiching it between the reservoir and drip director.

With regard to the solid walls defining the aperture(s), the Examiner considers that the non-porous sheet with filter portions in it to be solid walls. Applicants respectfully submit that this interpretation again ignores the instant claim language, which requires that one or more apertures are defined by solid walls extending through the thickness of the housing. The non-porous sheet of Fernwood does not define the well 12, and does not extend through the thickness of the housing as required by the claims.

With regard to the self-retaining feature, the Examiner states that since the porous regions are "contained" in the non-porous sheet, they do not fall out and are therefore self-retained. However, the claims require that the one or more apertures contain the self-retaining structure, that structure having an aspect ratio of less than about 20. The porous regions in the non-porous sheet of Fernwood, even if "self-retained", do not have an aspect ratio of less than 20.

The Examiner rejects claims 2 and 10 under 35 U.S.C. §103(a) as being unpatentable over Fernwood in view of Foltz. The Examiner cites Foltz for its disclosure of the entrapment of adsorbent particles in filter matrixes to effect separation.

Claims 2 and 10 are believed to be allowable by virtue of their dependence, for the reasons provided above.

The Examiner rejects claim 21 under 35 U.S.C. §103(a) as being unpatentable over Fernwood in view of Bowers. The Examiner cites Bowers for its disclosure of a filtration system with sample reservoirs and an underdrain tray having spouts, the sample reservoirs being bonded to the underdrain tray with the filter 70 therebetween.

Claim 21 is believed to be allowable by virtue of their dependence, for the reasons provided above.

Reconsideration and allowance are respectfully requested in view of the foregoing amendment and remarks.

Respectfully submitted,


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